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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)
SC11931TP

Certificate of Transmission under 37 CFR 1.8	Application Number	Filed
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on ___March 28, 2008___	First Named Inventor KOBAYASHI, THOMAS	
Signature ___/Dee Matocha/___ Typed or printed name: Dee Matocha	Art Unit 2891	Examiner STEVEN J. FULK

Applicant request review of the final rejection in the above identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

/Kim-Marie Vo/
Signature

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

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Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

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REMARKS

Claims 1-7, 9, 11-18, 20 and 21 are pending.

Claim Rejections

Claims 1, 2, 9, 11, 12, 17, 18, 20, and 21 are patentable under 35 U.S.C. 103(a) over Kono (U.S. 5,972,756) in view of Weber (U.S. 6,218,279).

Applicants submit Kono fails to teach at least [forming] a fuse overlying a passivation layer, as stated in independent claims 1, 11 and 18 from which all other pending claims depend. In contrast to the Examiner's position, Applicants submit Kono teaches a fuse under a passivation layer. The disagreement revolves around whether an inter-layer (e.g., Kono's layer 124) is a passivation layer.

Applicants Position:

Applicant submits an inter-layer (including Kono's layer 124) is not a passivation layer. Kono states, "Reference numeral 124 denotes an inter-layer insulating film of a TEOS oxide film simultaneously formed on the entire surface of the inter-layer insulating film 120." and "Reference numeral 150 denotes a passivation film of a silicon nitride film (Si.sub.3 N.sub.4) ..." (See 4th and 7th paragraphs under Description of the Preferred Embodiments section.) First, Kono distinguishes passivation 150 and non-passivation 124 layers by using different terms. If layer 124 was a passivation layer, Kono would have said so. Second, Kono's passivation layer 150 serves a different purpose than Kono's inter-layer insulating film 124 and based on Applicants specification and the meaning of the phrase "passivation layer" to one skilled in the art, Kono's interlayer is not a passivation layer.

Examiner's Positions and Applicants Rebuttals:

1. First, the Examiner contends Kono's inter-layer 124 meets Applicants' description (in the specification) of a passivation layer. On page 6, lines 18-22 of the specification, "The passivation layer 35 is formed over the ILD layer 20 and the conductive regions 30 to protect eth underlying layers from physical handling of the semiconductor device 5 the environment (especially humidity) , and t patterned using conventional means to expos portions of the conductive regions 30."
    a. Applicants submit that Kono's inter-layer 124 does not meet Applicants' description of a passivation layer. Kono's inter-layer 124 does not

"protect the underlying layers from physical handling and from the environment." Instead, Kono's layer 150, which Kono terms a passivation layer, does this. To find that Kono's inter-layer 124 protects underlying layers from physical handling and the environment would mean the phrase "passivation layer" is meaningless because as any layer would qualify as a passivation layer because any layer (except the first layer formed) protects underlying layers from physical handling and the environment.

b. Furthermore, a skilled artisan understands that the passivation layer is different than an inter-layer (or intermetal dielectric (IMD) layer) because the inter-layer is between conductive layers and the passivation layer formed over conductive layers. Both Applicants specification and Kono use the term passivation layer as one skilled in the art would and distinguish the passivation layers from intermediate layers as one skilled in the art would.

2. Second, the Examiner rebuts Applicants arguments that an inter-layer is not a passivation layer by arguing that there can be more than one passivation layer and providing references (Bryant and Udo) that teach multiple passivation layers.
    a. Applicants agree that there can be more than one passivation layer, as taught by Bryant and Udo. This argument is irrelevant to Applicants' point. Applicants contend that an inter-layer cannot be a passivation layer, no matter how many passivation layers are present. Neither Bryant nor Udo teach or suggest to a skilled artisan that an inter-layer is a passivation layer because the passivation layers in Bryant and Udo are not between conductive layers like an inter-layer. Instead, Bryant and Udo are using the phrase passivation layer as one skilled in the art would: a layer that protects the integrated circuit prior to encapsulation.

In summary, in all the provided references (and Applicants' specification), the phrase "passivation layer refers to layers that are formed over conductive layers, not between conductive layers like a Kono's inter-layer 124. Hence, for at least this reason, the cited prior art fails to teach or suggest to a skilled artisan all features of the claims. For example, the references fail to teach or suggest, "[forming] a fuse overlying a passivation layer." For at least this reason, all of the pending claims are allowable. Hence, Applicants earnestly solicit allowance of all pending claims.

The Office Action contains numerous statements characterizing the claims, the specification, and the prior art. Regardless of whether such statements are addressed by Applicants, Applicants refuse to subscribe to any of these statements, unless expressly indicated by Applicants.